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October 25, 2022

**VIA ECF**

The Honorable Lorna G. Schofield  
United States District Court  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

**Re: *United States v. Glencore International, A.G.*, 22 Cr. 297 (LGS)**

Dear Judge Schofield:

On behalf of our clients, Dr. Ian and Laurethé Hagen (the “Hagens”), we respectfully submit this letter motion to request that the Court permit the Hagens to file under seal Exhibit 8 to the Declaration of Dr. Ian Hagen (the “Hagen Declaration”) in support of the Victim Impact Statement and Request for Restitution (the “Request for Restitution”) filed in the above-referenced matter.

Pursuant to Section J.6(b) of the Court’s Individual Rules and Procedures for Criminal Cases (the “Court’s Rules”), this sentencing-related material has been redacted from the Hagen Declaration and the Request for Restitution. An unredacted copy of Exhibit 8 and copies of the Hagen Declaration and Request for Restitution marked to indicate what information has been redacted will be provided to the Court at the sentencing proceeding for review and filing under seal.<sup>1</sup>

As explained in the Request for Restitution, Exhibit 8 to the Hagen Affidavit contains preliminary findings of an investigation into a medical professional in the

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<sup>1</sup> Consistent with Section J.6(a) of the Court’s Rules, we have also redacted medical treatment and diagnosis information, personal identifying numbers, and email addresses in exhibits to the Hagen Declaration to comply with the Southern District’s ECF Privacy Policy.



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Democratic Republic of the Congo (“DRC”).<sup>2</sup> The investigation records in Exhibit 8 also include a statement that the file should be closed. The Hagens understand this to mean the record is not for public dissemination and that it may be considered sealed under the law of the DRC. We respectfully submit that Exhibit 8 should be filed under seal to preserve the privacy and safety of third parties and out of respect for principles of international comity.

It is appropriate to permit the filing of documents under seal if “countervailing factors” in the common law framework or “higher values” in the First Amendment framework so demand. *Lugosch v. Pyramid Co. of Onandaga*, 435 F.3d 110, 124 (2d Cir. 2006). Here, privacy and safety interests outweigh the need for public disclosure. Exhibit 8 is a confidential document relating to an investigation into a third-party. The privacy interests of “innocent third parties...should weigh heavily” in a sealing analysis. *United States v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995). The contents of Exhibit 8 also suggests that it may have been designated confidential to safeguard the physical well-being of certain parties. Because safety is recognized as a countervailing factor, there is additional cause to file Exhibit 8 under seal in order to “protect against potential harm.” *Baliga v. Link Motion Inc.*, No. 18-CV-11642, 2022 WL 3584939, at \*4 (S.D.N.Y. Aug. 22, 2022).

Furthermore, principles of international comity also weigh in favor of permitting Exhibit 8 to be filed under seal to the extent it may be considered sealed under DRC law. *See Omari v. Ras Al Khaimah Free Trade Zone Auth.*, No. 16-CIV-3895, 2017 WL 3896399, at \*14 (S.D.N.Y. Aug. 18, 2017) (holding that document should be sealed in part because “the principle of international comity counsels in favor of protecting the document from disclosure”).

For the reasons set forth above, we respectfully request that Exhibit 8 and references thereto in the Hagen Declaration and the Request for Restitution be permitted to be filed under seal.

Respectfully submitted,

/s/ Mark S. Cohen  
 Mark S. Cohen  
 Christian R. Everdell  
 Shannon A. Daugherty  
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<sup>2</sup> In an abundance of caution, the name of the medical professional is also redacted from the Request for Restitution and supporting materials.



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cc: All counsel of record (via ECF)